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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,594	10/17/2003	Naoki Kondo	05711.0158	9354
22852	7590	07/05/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			LAVINDER, JACK W	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,594

Applicant(s)

KONDO ET AL.

Examiner

Jack W. Lavinder

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 7-10 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “a protrusion by molding the protrusion protruding from part of an outer peripheral face thereof except a front and back faces disposed in the length direction of the fastener tape” found in independent claims 1, 7 and 10 is indefinite. What is meant by “except a front and back faces disposed in the length direction of the fastener tape?”

The applicant states in their arguments “that the protrusion integrally molded with the stopper portion protrudes from a part of the stopper portion's outer peripheral face except the front and back faces relative to the length direction of the fastener taper, for example, as shown directly facing the readers in Figs. 2-4.” The outer peripheral face does not have a side face in the length direction of the fastener tape. The examiner understands that the protrusion (4e) protrudes from the outer peripheral face of the stopper. What is not definite is the next phrase “except a front and back faces disposed in the length direction of the fastener taper. Does this mean that the protrusion protrudes from the peripheral face at 4c and not from the front and back faces? If so, the phrase is

misdescriptive. The protrusions extend from the back face 4b, see figure 2.

What other meaning can be interpreted from the limitation?

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7, 8 and 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo, 4752992, in view of Carlile, 2112725.

Regarding claim 1, Kondo discloses a resin stopper (18) welded (col. 2, last paragraph) to a fastener tape (11). The resin stopper has an upper leg portion (18a) and a lower leg portion (18b), which sandwiches the tape (11), and a bent portion (13, figure 6). Kondo also discloses a bottom face (18b') of a welded end portion on a side of the fastener tape (11, figure 6) located below a bottom face of the fastener tape main body, i.e., the bottom surface of 18b' is located below the bottom surface of the tape (11). Kondo fails to disclose a protrusion on part of an outer peripheral face.

Carlile discloses a stopper (13) having a protrusion (19, 20) protruding from the bent portion of the stopper to prevent the slider from accidentally becoming disengaged (page 1, column 1, lines 18-24). It would have been obvious to a person having ordinary skill in the art to modify Kondo's stopper to

have a protrusion extending from the bent portion in order to prevent the slider from accidentally becoming disengaged.

Regarding claims 7 and 8, Kondo discloses a resin stopper (18) welded (col. 2, last paragraph) to a fastener tape (11). The resin stopper has an upper leg portion (18a) and a lower leg portion (18b), which sandwiches the tape (11), and a bent portion (13, figure 6). Kondo also discloses a bottom face (18b') of a welded end portion on a side of the fastener tape (11, figure 6) located below a bottom face of the fastener tape main body, i.e., the bottom surface of 18b' is located below the bottom surface of the tape (11). Kondo fails to disclose a protrusion on part of an outer peripheral face.

Carlile discloses a stopper (13) having a protrusion (19, 20) protruding from the bent portion of the stopper to prevent the slider from accidentally becoming disengaged (page 1, column 1, lines 18-24). It would have been obvious to a person having ordinary skill in the art to modify Kondo's stopper to have a protrusion extending from the bent portion in order to prevent the slider from accidentally becoming disengaged.

Kondo in view of Carlile fails to disclose the protrusion formed on the surface of the bent portion. Kondo in view of Carlile discloses a rubber protrusion extending through an opening in the bent portion. It would have been an obvious design choice to position the protrusion on the surface of the bent portion in place of Carlile's stopper arrangement since it would perform the identical function of holding the slider. The motivation would be to simplify the

manufacturing process by eliminating the step of having to form the hole in the bent portion and then positioning the protrusion in hole.

Regarding claim 9, Kondo in view of Carlile fails to disclose a curved-shaped protrusion. The references disclose the basic shape, i.e., an elongated rectangular-shaped protrusion (19, 20). It would have been obvious to a person having ordinary skill in the art to change the shape of Carlile's protrusion to be a curved-shape since the specification fails to disclose any criticality to the shape of the protrusion and either shape works equally as well as the other in holding the slider.

Allowable Subject Matter

5. Claim 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

6. Applicant's arguments filed 4/28/2006 have been fully considered but they are not persuasive. The applicant argues that the claimed combination would not have a protrusion molded integrally with the stopper portion's outer peripheral face. One of ordinary skill in the art would know from viewing the references to place the protrusion on the outer peripheral face of Kondo's stopper. The art of injection molding stoppers as a single integral piece is old and well known (see Kondo). The examiner is not suggesting to bodily incorporate the two-piece stopper arrangement defined by Carlile into Kondo's stopper. However, the examiner is suggesting using Carlile's teachings of a protrusion extending from the stopper to prevent the unwanted withdrawal of the slider

from the zipper via the protrusion on the stopper. One of skill in the art would know how to mold the protrusion to Kondo's stopper.

Conclusion

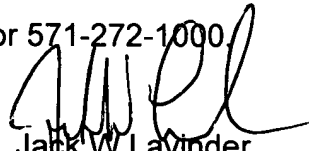
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jack W. Lavinder
Primary Examiner
Art. Unit 3677

6/26/06